

**UNITED STATES DEPARTMENT OF COMMERCE****United States Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/617,825	07/17/00	DREI	A

023413
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QM21/1011

EXAMINER

TSAI, H

ART UNIT

PAPER NUMBER

3722

DATE MAILED: 10/11/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/617,825	Applicant(s) DREI, ANDREA	
	Examiner Stephen Marcus	Art Unit 3700	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/16/01.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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Receipt is acknowledged of the papers filed on August 16, 2001 in response to the Office letter dated February 19, 2001.

The amendment contained in the response is held to be a bona fide attempt to reply to the Office letter in question, but is nonresponsive because it fails to comply with 37 CFR 1.173.

✓ Applicant should note that with respect to the filing of claim amendments, 37 CFR 1.121(a) is entitled "Amendments in applications, other than reissue applications." Thus, the "clean copy, marked-up copy" practice set forth in 37 CFR 1.121(a)-(g) DOES NOT apply in reissue applications. 37 CFR 1.121(h) is entitled "Amendments in reissue applications" and states that any amendment to the description and claims in reissue applications must be made in accordance with 37 CFR 1.173.

The present amendment does not comply with 37 CFR 1.173(b)(2) and (d) which require that claim amendments be made relative to the patent being reissued, with matter being added to the claim which did not appear in the patent being underlined, and with matter which did appear in the patent which is being deleted from the claim shown in brackets. Thus, only the so-called "marked up" version of claim 1(amended) would comply with the regulations. All other proposed amendments to the claims are non-compliant because all claims beginning with claim 8 are "new to the patent", and all words therein should be underlined, while no words being deleted from those claims appeared in the patent and so no words should be bracketed.

In addition, the response does not comply with 37 CFR 1.173(c). However, the proposed drawing corrections are in proper format.

As amendments are not entered in part, a complete response to this letter must include a resubmission of all papers filed, including the proposed drawing corrections. However, the file does in fact contain a copy of the Offer to Surrender, and a copy of that paper need not be resubmitted. Applicant should note that pursuant to 37 CFR 1.178(a), the application will not be allowed without surrender of the original patent or a statement that the original is lost or inaccessible. Compliance with this requirement of 37 CFR 1.178(a) may be deferred until the application is otherwise in condition for allowance.

With respect to the declaration, applicant is advised that the regulations no longer require that a reissue oath or declaration list all errors that are being corrected in the reissue application; specific identification of a single such error will suffice. See 37 CFR 1.175(a)(1). Therefore, the oath or declaration MUST contain a statement that "all errors being corrected in the reissue application up to the time of filing of the oath or declaration arose without any deceptive intent". See 37 CFR 1.175(a)(2). Applicant should further note that before this application can be allowed, a supplemental reissue declaration pursuant to 37 CFR 1.175(b) will be required.

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Any inquiries regarding this communication should be directed to the undersigned at (703) 308-3872.

A handwritten signature in black ink, appearing to read 'Stephen Marcus', with a stylized, flowing script.

Stephen Marcus
Special Program Examiner
Technology Center 3700